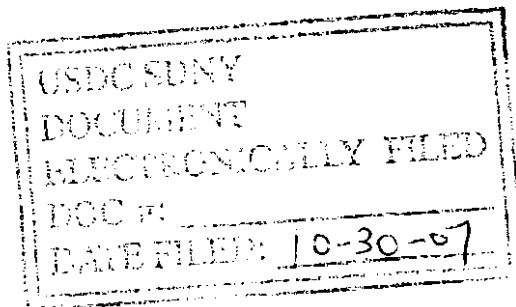


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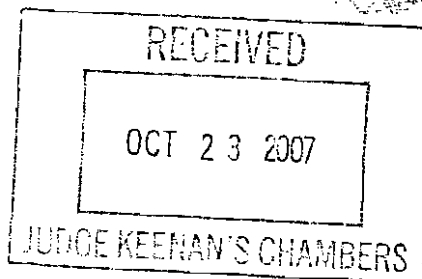
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MEMO ENDORSED

October 18, 2007

VIA OVERNIGHT MAIL

Hon. John F. Keenan
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1930
New York, New York 10007-1312



Re: Tundel v. Merck & Co., Inc., No. 1:07-cv-06396-JFK

Dear Judge Keenan:

Defendant Merck & Co., Inc. ("Merck") writes to inform the Court that counsel for Merck and Plaintiff in the above-referenced action have agreed to jointly request that the Court hold in abeyance further briefing on Merck's Motion to Dismiss Pursuant to Fed. R. Civ. P. 41(a)(1) ("Motion to Dismiss") until such time as the Circuit Court for Escambia County, Florida has ruled on Plaintiff's Motion to Vacate the Notice of Dismissal without Prejudice ("Motion to Vacate") in a related action.

As set out more fully in Merck's Motion to Dismiss, on May 22, 2006, Plaintiff filed his initial complaint against Merck in the Circuit Court for Escambia County, Florida. On August 31, 2006, that case was voluntarily dismissed without prejudice. On September 21, 2006, a second complaint that was subsequently filed in the U.S. District Court for the Northern District of Florida was also voluntarily dismissed without prejudice. On July 13, 2007, Plaintiff filed his complaint with this Court, alleging harm caused by his ingestion of Fosamax, and seeking damages under the same theories as the complaints filed in Escambia County and in Florida federal court. On August 30, 2007, Merck filed a Motion to Dismiss in this Court. On September 13, 2007, Plaintiff filed a Motion to Vacate in Escambia County, Florida. Plaintiff's motion is currently pending in that court.

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Merck has conferred with Plaintiff's counsel and has agreed to hold Merck's Motion to Dismiss in abeyance until such time as the Escambia County court has ruled on Plaintiff's Motion to Vacate the prior dismissal. We will inform the Court when such ruling has been received.

Respectfully submitted,



WJB/clm

cc: Timothy O'Brien, Esq.

SO ORDERED.

Dated: New York, N.Y.
October 30, 2007


U.S.D.J.